

1 **BEFORE THE FEDERAL ELECTION COMMISSION**

2
3
4 In the Matter of)
5) DISMISSAL AND
6 MUR 6561) CASE CLOSURE UNDER
7 FRIENDS OF LIBERTY FOR JESSICA) THE ENFORCEMENT
8 AND GARY DOAN, AS TREASURER) PRIORITY SYSTEM
9 JESSICA PUENTE BRADSHAW)
10)
11)

12 **GENERAL COUNSEL'S REPORT**

13 Under the Enforcement Priority System ("EPS"), the Commission uses formal scoring
14 criteria to allocate its resources and decide which cases to pursue. These criteria include, but are
15 not limited to, an assessment of the following factors: (1) the gravity of the alleged violation,
16 both with respect to the type of activity and the amount in violation; (2) the apparent impact the
17 alleged violation may have had on the electoral process; (3) the legal complexity of issues raised
18 in the case; (4) recent trends in potential violations of the Federal Election Campaign Act of
19 1971, as amended (the "Act"); and (5) development of the law with respect to certain subject
20 matters. It is the Commission's policy that pursuing low-rated matters, compared to other
21 higher-rated matters on the Enforcement docket, warrants the exercise of its prosecutorial
22 discretion to dismiss cases under certain circumstances or, where the record indicates that no
23 violations of the Act or underlying Commission regulations has occurred, to make no reason to
24 believe findings. The Office of General Counsel ("OGC") has scored MUR 6561 as a low-rated
25 matter and has also determined that it should not be referred to the Alternative Dispute
26 Resolution Office. For the reasons set forth below, OGC recommends that the Commission
27 exercise its prosecutorial discretion to dismiss MUR 6561, in part, and make no reason to believe
28 findings, in part.¹

¹ Complaint Filed: April 23, 2012. Response Filed: June 11, 2012. Complaint Amendment Filed: May 15, 2012. Response Amendment Filed: June 12, 2012.

1 Complainant Arturo I. Martinez de Vara alleges that Jessica Puente Bradshaw, and
2 Friends of Liberty for Jessica and Gary Doan in his official capacity as treasurer (the
3 "Committee"), violated the Act by failing to properly register a Statement of Candidacy and
4 Statement of Organization.² Compl. at 1. Specifically, the Complaint alleges that Bradshaw
5 declared as a candidate in Texas's 34th Congressional District for the 2012 election, noting that
6 the website of the Republican Party of Texas states that Bradshaw filed for candidacy on
7 December 16, 2011.³ Compl. at 1. The Complaint contends, however, that as of April 18, 2012,
8 there was no record of Bradshaw having filed a Statement of Organization (FEC Form 1) or
9 Statement of Candidacy (FEC Form 2) for that election on the FEC's website.⁴ *Id.* Thus, the
10 Complaint concludes that Bradshaw and the Committee may have violated 11
11 C.F.R. §§ 101.1(a), 102.1(a), and 102.2(a). *Id.*

12 An amendment to the Complaint, filed on May 16, 2012, states that, in addition to
13 appearing as a candidate on the website of the Republican Party of Texas, Bradshaw was also
14 listed as a candidate in Texas's 34th Congressional District on the Texas Secretary of State
15 website. Amend. Compl. at 1. The Amended Complaint points out that, in contrast, as of May
16 11, 2012, Bradshaw had filed amended Statements of Candidacy and an April Quarterly Report
17 with the FEC as a candidate in Texas's 27th Congressional District, not the 34th. *Id.* The

² Friends of Liberty for Jessica is the principal campaign committee for Bradshaw, a candidate in Texas's 34th Congressional District. Bradshaw lost in the 2012 general election to Filemon Vela.

³ Texas's 34th Congressional District is a new district that was created as a result of the 2010 Census, incorporating portions of what had previously been Texas's 15th, 25th, and 27th Congressional Districts. See <http://www.tlc.state.tx.us/redist/redist.html>. On February 28, 2012, the U.S. District Court for the Western District of Texas ordered an interim plan (Plan C235) for the districts used in 2012 to elect members of the Texas delegation to Congress. This plan is currently in effect. See *Perez v. Texas*, 891 F. Supp. 2d 808 (W.D. Tex. 2012); <http://www.tlc.state.tx.us/redist/districts/congress.html>.

⁴ Bradshaw previously campaigned in 2010 in Texas's 27th Congressional District, and she filed her first Statement of Candidacy (FEC Form 2) on January 7, 2010. The Committee filed its first Statement of Organization (FEC Form 1) on January 15, 2010 and has continued as Bradshaw's principal campaign committee throughout both election cycles.

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1 Amended Complaint also alleges that public records reflect that Bradshaw's legal name is
2 Jessica Robinson and that she therefore provided an incorrect name on her Statements of
3 Organization and Candidacy.⁵ *Id.* at 1-2. Additionally, the Amended Complaint alleges that
4 Bradshaw's second amended Statement of Candidacy, dated May 7, 2012, designated "Friends
5 of Liberty for Jessica" as both her principal campaign committee and as an authorized committee
6 (*i.e.*, "... NOT [her] primary campaign committee."). *Id.* at 2. (Emphasis in original)

7 In the Response, Bradshaw offers that a volunteer recently took over as treasurer, which
8 caused the incorrect designation of the congressional district to be "inadvertently missed" and
9 resulted in contradictory statements with respect to the designation of her authorized committee
10 on her FEC Form 2. *Resp.* at 1. Additionally, Bradshaw explains that due to her naturalization
11 as a United States citizen, her adoption by a step-father, relocations, and marriage, her name was
12 modified several times. *Id.* She maintains, however, that her name is Jessica Puente Bradshaw.
13 *Id.* Finally, in a Supplemental Response, Bradshaw asserts that no new Forms 1 or 2 were
14 required to be re-filed with the Commission since her 2012 campaign was a continuation of her
15 2010 bid for Congress. *Suppl. Resp.* at 1.

16 Under the Act, an individual becomes a candidate for federal office when he or she has
17 received contributions or made expenditures in excess of \$5,000. 2 U.S.C. § 431(2). A
18 candidate has fifteen days from the date he or she becomes a candidate to file a Statement of
19 Candidacy (FEC Form 2) with the Commission, which must designate a principal campaign
20 committee. 2 U.S.C. § 432(e)(1). A candidate must file a new FEC Form 2 for each election

⁵ The Amendment to the Complaint cited the candidate's Texas Drivers License Registration, voter registration, a Texas Real Estate License, and a signature on a ballot petition as evidence of Bradshaw using the legal name "Jessica Robinson." *Amend. Compl.* at 1-2. The Amendment to the Complaint further alleges duplicate Texas voter registrations under the name Jessica Robinson, in both Cameron and Travis Counties. *Amend. Compl.* at 2. Because voter registration is not under the FEC's jurisdiction, the Office of General Counsel makes no recommendation as to this allegation.

1 cycle in which he or she is a candidate, within fifteen days after crossing the \$5,000 registration
2 threshold. *See* 11 C.F.R. §§ 101.1, 100.3(b). In its 2012 April Quarterly Report, filed on April
3 20, 2012, the Committee reported receiving a \$7,500 loan in the category "Made or Guaranteed
4 by the Candidate," dated March 31, 2012. As of that date, the \$5,000 threshold was crossed.
5 Bradshaw was therefore required to file a new FEC Form 2 within fifteen days of March 31,
6 2012 for the 2012 election cycle. Bradshaw, however, did not file a new Form 2 until April 20,
7 2012. Additionally, under the Act, the Committee was required to file its 2012 April Quarterly
8 Report no later than April 15, 2012. *See* 2 U.S.C. § 434(a)(2)(A)(iii). The Committee's 2012
9 April Quarterly Report was not filed until April 20, 2012.

10 Any change in information previously submitted in a Statement of Organization must be
11 reported to the Commission by filing an amended FEC Form 1 no later than ten days after the
12 date of the change.⁶ *See* 2 U.S.C. § 433(c); 11 C.F.R. § 102.2(a)(2). When Texas's redistricting
13 plan went into effect on February 28, 2012, the Committee should have filed an amended FEC
14 Form 1 reflecting the change in congressional district within ten days of that date. The Response
15 also states that Doan became the Committee's new treasurer "in late March" 2012. *Resp.* at 1.
16 The Committee, however, did not file a new Form 1 reflecting the change in treasurer until April
17 18, 2012.⁷

18 Commission regulations require a candidate to designate his or her principal campaign
19 committee by filing a Statement of Candidacy on FEC Form 2, which contains the state and
20 congressional district in which office is sought. 2 U.S.C. § 433(b)(5); 11 C.F.R.

⁶ When filing an FEC Form 2 in a new election cycle, a candidate may either redesignate his or her previous campaign committee, or designate a new principal campaign committee; if the candidate redesignates an existing committee, the committee need only amend its Statement of Organization (FEC Form 1) within ten days to reflect any new information. *See* 11 C.F.R. § 102.2(a)(2).

⁷ On its April 18, 2012, Form 1, the Committee listed TX-34 as the congressional district in which Bradshaw was running. The Committee filed an additional Form 1 on April 20, 2012, incorrectly listing TX-27 as the district in which Bradshaw was running. The Committee filed its current Form 1 on June 6, 2012, accurately listing TX-34.

1 §§ 101.1(a), 102.2(a)(v). In response to the allegation of listing Texas's 27th Congressional
2 District, not the 34th, as the district number of the office sought in its FEC filings, the Response
3 stated that in 2010 Bradshaw had campaigned for Texas's 27th Congressional District, and in an
4 amendment to the Response, reiterated that the current campaign is a continuation of the first
5 campaign. Resp. at 1; Amend. Resp. at 1. The Response further stated that in preparing for the
6 2012 campaign, the Committee had changed treasurers. Resp. at 1. The Response explained that
7 because of the transition to the 2012 campaign, and the Committee's new treasurer, "the change
8 to the Congressional District was inadvertently missed." *Id.*

9 Each candidate for Federal office is required to designate in writing a principal campaign
10 committee by filing a Statement of Candidacy on FEC Form 2. 2 U.S.C § 432(e)(1); 11 C.F.R.
11 §§ 101.1(a), 102.12(a). A candidate may designate additional political committees to serve as
12 authorized committees of such candidate. 2 U.S.C. § 432(e)(1); 11 C.F.R. § 101.1(b). Thus, a
13 committee may only be designated as either the principal campaign committee or an authorized
14 committee on FEC Form 2, but not both. With regard to the contradictory designation of
15 "Friends of Liberty for Jessica" as both the principal campaign committee and as an authorized
16 committee on the candidate's FEC Form 2, Bradshaw responded that there was some confusion
17 during the transition of treasurers, and that the new treasurer was working to correct any errors.
18 The Statements of Candidacy at issue indicate that the Committee's name and address had
19 simply been entered in both sections on Form 2.

20 Finally, Complainant alleges that Bradshaw violated 2 U.S.C. § 433(b)(5) and 18 U.S.C.
21 § 1001(a)(2), (3) because she provided on her Statements of Organization and Candidacy a name
22 other than that of her "legal name." Amend. Compl. at 1-2. Bradshaw responded that through
23 immigration, adoption, and marriage, her middle name and surname had changed over the years,
24 and had been, at various times, Jessica Maria Puente, Jessica Robinson, and Jessica Puente

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1 Bradshaw. Resp. at 1. Bradshaw stated that she had made several attempts to clarify and
2 “standardize” her full name. *Id.* Section 433(b)(5) only requires that, on its statement of
3 organization, an authorized committee identify “the name . . . of the candidate” for which it is
4 designated. *See also* 2 U.S.C. § 432(e)(1). The authorized committee identifies Bradshaw on
5 FEC Form 1 as the candidate for whom it is designated, and there is no available information to
6 suggest that the Committee was, in fact, an authorized committee for any other individual.
7 Accordingly, for these reasons, we recommend that the Commission find no reason to believe
8 that Bradshaw or the Committee violated 2 U.S.C. § 433(b)(5).⁸

9 In light of the technical nature of the reporting violations, the Office of General Counsel
10 believes that further enforcement action is unnecessary, and recommends that the Commission
11 exercise its prosecutorial discretion and dismiss, pursuant to *Heckler v. Chaney*, 470 U.S. 821
12 (1985), the allegations regarding failing to file new and amended Forms 1 and 2 with the
13 Commission; failing to accurately report the congressional district of the office sought;
14 designating the Committee as both the principal campaign committee and as an authorized
15 committee on FEC Form 2; and failing to timely file a 2012 April Quarterly Report. The Office
16 of General Counsel also recommends that the Commission make a finding of no reason to
17 believe regarding the allegations of failing to accurately identify Bradshaw by name as the
18 candidate supported by Bradshaw’s authorized committee. The Office of General Counsel also
19 recommends that the Commission dismiss, for lack of jurisdiction, the allegation regarding
20 providing false statements on the Statements of Organization and Candidacy. Additionally, due
21 to the fact that Bradshaw’s most recent FEC Form 2 still designates the Committee as both the

⁸ The section 1001 allegations concerning “any materially false, fictitious, or fraudulent representation, . . . writing or document” is a separate claim for which the Commission does not have jurisdiction. 18 U.S.C. § 1001(a)(2), (3). We recommend that the Commission dismiss this issue for lack of jurisdiction.

principal campaign committee and as an authorized committee, the Office of General Counsel recommends that the Commission remind Bradshaw to amend her FEC Form 2 accordingly. The Office of General Counsel also recommends the Commission approve the attached Factual and Legal Analysis and the appropriate letters, and close the file.

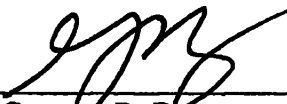
RECOMMENDATIONS

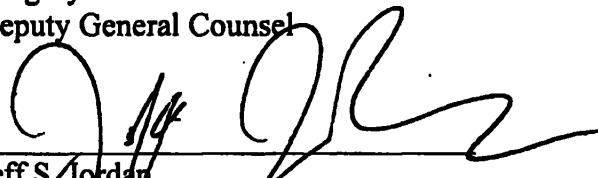
1. Dismiss, as a matter of prosecutorial discretion, the allegation that Jessica Puente Bradshaw, and Friends of Liberty for Jessica and Gary Doan in his official capacity as treasurer, violated 2 U.S.C. §§ 432(e)(1) and 433(a) by failing to timely file new and amended FEC Forms 1 and 2.
2. Dismiss, as a matter of prosecutorial discretion, Friends of Liberty for Jessica and Gary Doan in his official capacity as treasurer, for violating 2 U.S.C. § 434(a)(2)(A)(iii) by failing to timely file a 2012 April Quarterly Report;
3. Dismiss, as a matter of prosecutorial discretion, the allegation that Jessica Puente Bradshaw, and Friends of Liberty for Jessica and Gary Doan in his official capacity as treasurer, violated 2 U.S.C. § 433(c) by failing to accurately report the congressional district of the office sought;
4. Dismiss, as a matter of prosecutorial discretion, the allegation that Jessica Puente Bradshaw violated 2 U.S.C. § 432(e)(1) by designating Friends of Liberty for Jessica as both the principal campaign committee and an authorized committee on FEC Form 2;
5. Find no reason to believe that Jessica Puente Bradshaw, and Friends of Liberty for Jessica and Gary Doan in his official capacity as treasurer, violated 2 U.S.C. § 433(b)(5) by failing to accurately identify Bradshaw as the candidate supported by Bradshaw's authorized committee;
6. Remind Jessica Puente Bradshaw that a committee may only be designated as either the principal campaign committee or an authorized committee on FEC Form 2, and that FEC Form 2 should be amended accordingly;
7. Approve the attached Factual & Legal Analyses and the appropriate letters; and
8. Close the file.

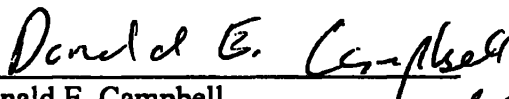
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